

AMENDED IN ASSEMBLY MAY 23, 2006

AMENDED IN SENATE MAY 10, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 204

Introduced by Senator Bowen

February 10, 2005

An act to amend Section 25205 of the Public Resources Code, and to amend Section 303 of, ~~and to add Section 303.5 to,~~ the Public Utilities Code, relating to commission memberships.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Bowen. Public Utilities Commission: State Energy Resources Conservation and Development Commission: commission memberships.

~~Existing law prohibits members of the California Public Utilities Commission (CPUC) from holding an official relationship with, or having a financial interest in, any person or corporation subject to CPUC regulation. Existing law prohibits members of the CPUC from holding an official relation to, or having a financial interest in, a person or corporation subject to regulation by the CPUC. Existing law provides that if a member of the CPUC acquires a financial interest in a corporation or person subject to regulation by the CPUC other than voluntarily, his or her office becomes vacant unless within a reasonable time he or she divests the financial interest. Existing law requires the CPUC, by February 28, 1998, to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.~~

~~This bill would additionally preclude membership on the CPUC by any person who, during the 2 years preceding appointment, received a~~

~~substantial portion of his or her income from any person or corporation subject to CPUC regulation. The bill would prohibit CPUC members from being employed by a person or corporation subject to CPUC regulation, while a member of the CPUC or within 2 years thereafter. The bill would prohibit CPUC members from holding any other public office or position. The bill would require CPUC members to comply with provisions governing conflicts of interest of officers and employees appointed within the state civil service. The bill would prohibit members and employees of the CPUC from participating personally and substantially in matters in which the person knows that the person, his or her spouse or minor child, partner, any organization he or she serves or has served as an officer, director, trustee, partner, or employee has a direct or indirect financial interest or has had such an interest during the two years prior to his or her appointment as a member of the CPUC. The bill would prohibit any person who is a partner, employer, or employee of a member or employee of the CPUC from acting as an attorney, agent, or employee for any person other than the state in connection with any matter in which the CPUC is a party or has a direct and substantial interest. The bill would make a violation of these provisions a misdemeanor, subject to fine or imprisonment. By creating a new crime, the bill would impose a state-mandated local program.~~

~~This bill would provide that if a member of the CPUC acquires or maintains a financial interest in a person or corporation and knows or should know the person or corporation is subject to regulation by the CPUC, his or her office would immediately become vacant. The bill would provide that if a member of the CPUC involuntarily acquires or maintains a financial interest in a person or corporation subject to regulation by the CPUC, his or her office would become vacant unless within a reasonable time he or she divests the financial interest. The bill would require the CPUC, by June 1, 2006, to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.~~

~~(1) The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission), with various duties and responsibilities with respect to energy policy and planning. Existing law prohibits any person from being a member of the Energy Commission who, during the 2 years prior to appointment, received any substantial portion of his or her income directly or indirectly from any electric utility, as defined, or~~

who engages in the sale or manufacture of any major component of any facility, as defined. Existing law prohibits a member of the Energy Commission from being employed by any electric utility, applicant, as defined, or from being employed within 2 years after he or she ceases to be a member of the Energy Commission, by any person engaged in the sale or manufacture of any major component of any facility. *Existing law makes the violation of these provisions a felony subject to fine and imprisonment, or both.*

This bill would prohibit any person from being a member of the Energy Commission who, during the 2 years prior to appointment, received any substantial portion of his or her income directly or indirectly from any person or corporation subject to regulation by the Energy Commission, or who engages in the sale or manufacture of any major component of any facility. The bill would prohibit a member of the Energy Commission from being employed by any person or corporation subject to regulation by the Energy Commission, including an applicant, or within 2 years after he or she ceases to be a member of the Energy Commission, by any person engaged in the sale or manufacture of any major component of any facility. *Because a violation of the bill's provisions would be a crime, this bill would impose a state-mandated local program by expanding the definition of an existing crime.*

(2) *Existing law prohibits members of the California Public Utilities Commission (CPUC) from holding an official relation to, or having a financial interest in, a person or corporation subject to regulation by the CPUC. Existing law provides that if a member of the CPUC acquires a financial interest in a corporation or person subject to regulation by the CPUC other than voluntarily, his or her office becomes vacant unless within a reasonable time he or she divests the financial interest. Existing law requires the CPUC, by February 28, 1998, to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.*

This bill would provide that if a member of the CPUC acquires or maintains a financial interest in a person or corporation and knows or should know the person or corporation is subject to regulation by the CPUC, his or her office would immediately become vacant. The bill would provide that if a member of the CPUC involuntarily acquires or maintains a financial interest in a person or corporation subject to regulation by the CPUC, his or her office would become vacant unless within a reasonable time he or she divests the financial interest. The

bill would require the CPUC, by June 1, 2007, to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25205 of the Public Resources Code is
2 amended to read:

3 25205. (a) No person shall be a member of the commission
4 who, during the two years prior to appointment to the
5 commission, received any substantial portion of his or her
6 income directly or indirectly from any person or corporation
7 subject to regulation by the commission, or who engages the sale
8 or manufacture of any major component of any facility. No
9 member of the commission shall be employed by any person or
10 corporation subject to regulation by the commission, including an
11 applicant, or, within two years after he or she ceases to be a
12 member of the commission, by any person who engages in the
13 sale or manufacture of any major component of any facility.

14 (b) Except as provided in Section 25202, the members of the
15 commission shall not hold any other elected or appointed public
16 office or position.

17 (c) The members of the commission and all employees of the
18 commission shall comply with all applicable provisions of
19 Section 19990 of the Government Code.

20 (d) No person who is a member or employee of the
21 commission shall participate personally and substantially as a
22 member or employee of the commission, in any matter in which,
23 to his or her knowledge, he or she, his or her spouse, minor child,
24 or partner, or any organization, except a governmental agency or
25 educational or research institution qualifying as a nonprofit
26 organization under state or federal income tax law, in which he
27 or she is serving, or has served as an officer, director, trustee,

1 partner, or employee while serving as a member or employee of
2 the commission or within two years prior to his or her
3 appointment as a member of the commission, has a direct or
4 indirect financial interest.

5 (e) No person who is a partner, employer, or employee of a
6 member or employee of the commission shall act as an attorney,
7 agent, or employee for any person other than the state in
8 connection with any matter in which the commission is a party or
9 has a direct and substantial interest.

10 (f) The provisions of this section shall not apply if the
11 Attorney General finds that the interest of the member or
12 employee of the commission is not so substantial as to be deemed
13 likely to affect the integrity of the services which the state may
14 expect from such the member or employee.

15 (g) Any person who violates any provision of this section is
16 guilty of a felony and shall be subject to a fine of not more than
17 ten thousand dollars (\$10,000) or imprisonment in the state
18 prison, or both.

19 SEC. 2 Section 303 of the Public Utilities Code is amended to
20 read:

21 303. (a) A public utilities commissioner may not hold an
22 official relation to nor have a financial interest in a person or
23 corporation subject to regulation by the commission. If any
24 commissioner acquires or maintains a financial interest in a
25 person or corporation that the commissioner knows or should
26 know is subject to regulation by the commission, his or her office
27 shall immediately become vacant. If any commissioner
28 involuntarily acquires or maintains a financial interest in a person
29 or corporation subject to regulation by the commission, his or her
30 office shall become vacant unless within a reasonable time he or
31 she divests himself or herself of the interest.

32 (b) The commission shall adopt an updated Conflict of Interest
33 Code and Statement of Incompatible Activities, by June 1, 2006
34 2007, in a manner consistent with applicable law.

35 ~~SEC. 3. Section 303.5 is added to the Public Utilities Code, to~~
36 ~~read:~~

37 ~~303.5. (a) No person shall be a member of the commission~~
38 ~~who, during the two years prior to appointment to the~~
39 ~~commission, received any substantial portion of his or her~~
40 ~~income directly or indirectly from any person or corporation~~

1 subject to regulation by the commission. No member of the
2 commission shall be employed by any person or corporation
3 subject to regulation by the commission during the term he or she
4 is a member of the commission, or within two years after he or
5 she ceases to be a member of the commission.

6 (b) The members of the commission shall not hold any other
7 elected or appointed public office or position.

8 (c) The members of the commission and all employees of the
9 commission shall comply with all applicable provisions of
10 Section 19990 of the Government Code.

11 (d) No person who is a member or employee of the
12 commission shall participate personally and substantially as a
13 member or employee of the commission, in any matter in which,
14 to his or her knowledge, he or she, his or her spouse, minor child,
15 or partner, or any organization in which he or she is serving, or
16 has served as officer, director, trustee, partner, or employee while
17 serving as a member or employee of the commission or within
18 two years prior to her or his appointment as a member of the
19 commission, has a direct or indirect financial interest.

20 (e) No person who is a partner, employer, or employee of a
21 member or employee of the commission shall act as an attorney,
22 agent, or employee for any person other than the state in
23 connection with any matter in which the commission is a party or
24 has a direct and substantial interest.

25 (f) Any person who violates any provision of this section is
26 guilty of a misdemeanor, and is punishable by a fine of not more
27 than ten thousand dollars (\$10,000), by imprisonment in the
28 county jail for not more than one year, or both, for each violation.

29 SEC. 4.

30 SEC. 3. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the
35 penalty for a crime or infraction, within the meaning of Section
36 17556 of the Government Code, or changes the definition of a
37 crime within the meaning of Section 6 of Article XIII B of the
38 California Constitution.

O